

FILED

MAR 18 2010

U. S. District Bankruptcy Court  
Western District of Texas  
San Antonio Division

U.S. BANKRUPTCY COURT  
BY Se DEPUTY

RHETT WEBSTER PEASE  
Plaintiff

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CAUSE No: 10-5011 C

v.

FIRST NATIONAL BANK OF GIDDINGS  
WRIGHT & GREENHILL, P.C.  
Defendants

**PLAINTIFF'S REQUEST**  
**FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT**

Plaintiff asks the clerk of the court to enter default and default judgment against defendant, as authorized by Federal Rule of Civil Procedure 55.

A. Introduction

1. Rhett Webster Pease is plaintiff. First National Bank of Giddings is defendant.
2. On January 28, 2010, plaintiff sued defendants for fraud, slander and malicious prosecution.
3. On February 4, 2010, First National Bank of Giddings was served with summons and a copy of plaintiff's complaint by certified mail # 70083230000062584716. A copy of the return of service is attached as Exhibit A. Defendant did not file a responsive pleading or otherwise defend the suit.
4. Plaintiff is, therefore, entitled to entry of default.

B. Argument & Authorities

5. The clerk of the court may enter default and default judgment against a party who has not filed a responsive pleading or otherwise defended the suit and when the affirmative relief sought is a calculable sum certain. Fed.R.Civ.P 55(a);(b)(1). However, the clerk of the court may not

enter default judgment against a minor, an incompetent person, or a member of the United States Military. Fed. R. Civ. P. 55(b)(1), (e); 50 U.S.C. app. §520(a).

6. The clerk should enter a default and default judgment against defendant because, although duly served, defendant did not file an answer within 20 days after February 4, 2010. Fed.R.Civ.P. 12(a)(1)(A).

7. Plaintiff meets the procedural requirements for obtaining both entry of default and default judgment from the clerk as demonstrated by Rhett Webster Pease's sworn affidavit, attached as Exhibit B.

8. Defendant is not an infant, an incompetent person, nor a member of the United States military. Fed.R.Civ.P.55 (b)(1); 50 U.S.C. app. §520 (1). An affidavit of defendant's military status is attached as Exhibit C.

9. Because defendant did not file a responsive pleading or otherwise defend the suit, defendant is not entitled to notice of entry of default. Fed.,R.Civ.P. 55(b)(1); *Key Bank v. Tablecloth Textile Corp.*, 74 F.3d 349, 352-53 (1<sup>st</sup> Cir. 1996).

10. The damages set forth in plaintiff's complaint are liquidated and proved by affidavit, attached as Exhibit D.

11. Plaintiff also seeks costs of court.

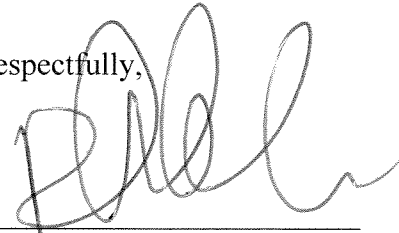
#### C. Conclusion

9. Defendant was properly served with service of process, the time since service has been more than 20 days. The return of service has been in the record of the court for more than ten days. Plaintiff, therefore, is entitled to entry of default and default judgment.

#### D. Prayer

10. For these reasons, plaintiff asks the clerk to enter default and default judgment in favor of plaintiff for the sum of \$8,020,000, plus costs of court.

Respectfully,

A handwritten signature in black ink, appearing to read 'Rhett Webster Pease', written over a horizontal line.

Rhett Webster Pease  
c/o 6715 Skynook Drive  
Austin, Texas 78745  
(512) 699-0164

U. S. District Bankruptcy Court  
Western District of Texas  
San Antonio Division

RHETT WEBSTER PEASE  
Plaintiff,

V.

FIRST NATIONAL BANK OF GIDDINGS  
WRIGHT & GREENHILL, P.C.  
Defendants.

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CAUSE NO. 10-5011-C

PLAINTIFF'S AFFIDAVIT IN SUPPORT OF DAMAGES

STATE OF TEXAS       }  
COUNTY OF TRAVIS    } ss

On this day, Rhett Webster Pease appeared before me, the undersigned notary public. After I administered an oath to him, upon his oath, he said:

"My name is Rhett Webster Pease. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and true and correct.

This cause of action arises from the defendants persistent and unrelenting terrorism against Plaintiff by determining him to be a tenant at sufferance without any agreement by Plaintiff to submit to said position.

Defendants have sued Plaintiff numerous times relating to a mortgage loan that was initiated by Plaintiff's brother. Defendants have no legal right to continue to terrorize Plaintiff and he proposed a performance contract that would charge Defendants \$2,500,000.00 per incident.

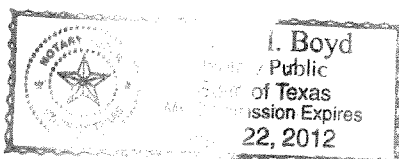
The Defendants have performed and continue to perform. Plaintiff has sent numerous invoices to Defendants and they have at all times refused to tender payment.

The damages are liquidated pursuant to the agreement at \$8,020,000.00.

Further affiant sayeth not."

  
Rhett Webster Pease, affiant

SWORN TO AND SUBSCRIBED before me by Rhett Webster Pease on March 16, 2010.



  
Notary Public in and for  
the State of Texas

Form B 250A (12/09)

FILED

MAR 01 2010

## United States Bankruptcy Court

WESTERN District Of TEXASU.S. BANKRUPTCY COURT  
BY [Signature] DEPUTYIn re RHETT W. PEASE,  
DebtorCase No. 09-54754CChapter 13RHETT W. PEASE  
Plaintiff

v.

Adv. Proc. No. **10-5011 C**FIRST NATIONAL BANK GIDDINGS  
WRIGHT GREEN HILL PC  
Defendant  
BILL LADDISS

## SUMMONS IN AN ADVERSARY PROCEEDING

YOU ARE SUMMONED and required to file a motion or answer to the complaint which is attached to this summons with the clerk of the bankruptcy court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall file a motion or answer to the complaint within 35 days.

Address of the clerk:

615 E. HOUSTON  
SAN ANTONIO, TX 78295

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

Name and Address of Plaintiff's Attorney:

RHETT W. PEASE  
1032 PR 7039  
LEXINGTON, TX 78947

If you make a motion, your time to answer is governed by Fed. R. Bankr. P. 7012.

**IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

GEORGE D. PRENTICE, II (Clerk of the Bankruptcy Court)Date: 04/28/10By: [Signature] (Deputy Clerk)

**CERTIFICATE OF SERVICE**

I, DESSIE ANDREWS (name), certify that service of this summons and a copy of the complaint was made FEB. 3, 2010 (date) by:

- ☐ Mail service: Regular, first class United States mail, postage fully pre-paid, addressed to:
- ☐ Personal Service: By leaving the process with the defendant or with an officer or agent of defendant at:
- ☐ Residence Service: By leaving the process with the following adult at:

- ☒ Certified Mail Service on an Insured Depository Institution: By sending the process by certified mail addressed to the following officer of the defendant at:

BILL LANDISS, FIRST NATIONAL BANK GIDDINGS TX  
108 E. AUSTIN, 78742 7008 3230 0000 6258 4716

- ☐ Publication: The defendant was served as follows: [Describe briefly]

- ☐ State Law: The defendant was served pursuant to the laws of the State of \_\_\_\_\_, as follows: [Describe briefly]

If service was made by personal service, by residence service, or pursuant to state law, I further certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made.

Under penalty of perjury, I declare that the foregoing is true and correct.

Date 2/3/10

Print Name :

Business Address:

Signature

DESSIE ANDREWS

6715 SKYWORK DR.  
AUSTIN, TX 78735

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- Arrival at Unit, February 04, 2010, 7:36 am, GIDDINGS, TX 78942

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Western District of Texas  
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RHETT WEBSTER PEASE  
Plaintiff

v.

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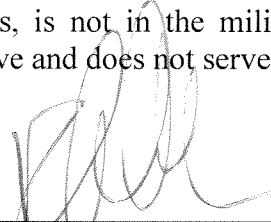
SOLDIERS' & SAILORS' AFFIDAVIT

STATE OF TEXAS       }  
COUNTY OF TRAVIS    }

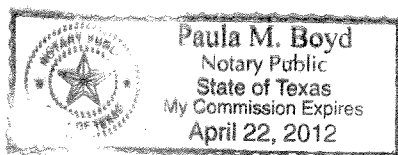
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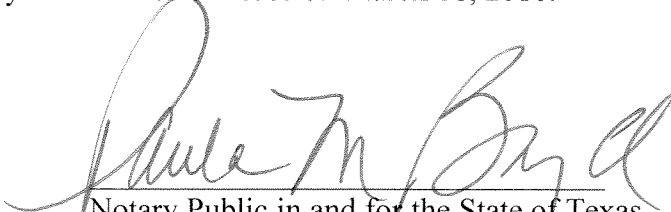
“My name is Rhett Webster Pease. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

Defendant, First National Bank of Giddings, is not in the military. Defendant is a corporation doing business as a bank and can not serve and does not serve in the military.

  
\_\_\_\_\_  
Rhett Webster Pease

SWORN TO and SUBSCRIBED before me by Rhett Webster Pease on March 16, 2010.



  
\_\_\_\_\_  
Notary Public in and for the State of Texas